

MEMORANDUM

DATE: February 6, 2009

TO: Honorable Joan Schulze
Chairperson Joint Legislative Committee for
Elderly Affairs
Honorable John Lynch, Governor
Honorable Terie Norelli, Speaker of the House
Honorable Sylvia Larsen, President of the Senate

FROM: Kelly Clark,
State Director, AARP New Hampshire
Douglas P. McNutt
AARP New Hampshire
For the Long Term Care Commission

SUBJECT: Long Term Care Commission Report

CC: Long Term Care Commission

The Long Term Care (LTC) Commission was created by the joint Legislative Committee on Elderly Affairs at its March 24, 2008 meeting to refocus efforts on LTC reform by building on the bi-partisan policy direction in place since the passage of SB 409 in 1998. The enclosed report is the work of the members of the Commission.

We would like to thank the members of the Long Term Care Commission for their commitment to the Commission and this report.

If you have any questions or comments regarding this report, please do not hesitate to contact Kelly Clark at AARP New Hampshire 603-621-1101, kclark@aarp.org or Douglas McNutt at AARP New Hampshire 603-621-1004, dmcnutt@aarp.org

LONG TERM CARE COMMISSION
JOINT LEGISLATIVE COMMITTEE FOR
ELDERLY AFFAIRS

REPORT OF THE COMMISSION

February 6, 2009

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Introduction

Changes in the age composition of the New Hampshire population have emerged as one of the defining social, economic and public policy issues of the 21st century. Today nearly one of every four people residing in New Hampshire (24.1% of New Hampshire's population) is 55 years of age or older and the percentage of the population over 65 will continue to increase. To address the policy issues resulting from this trend, state leaders decided to form a non-statutory Long Term Care Commission in the Spring of 2008.

Background

New Hampshire has implemented many positive changes in its public long-term care system over the past ten years. Some of the major accomplishments are:

1. Creation of a statewide ServiceLink Resource Center network to give older adults and adults with disabilities and their families a single point of entry for information, counseling and eligibility determination for long-term care services;
2. Implementation of consumer-directed services through a variety of models to afford individuals and their families more control over their services and the manner in which they are delivered;
3. Expansion of access to community-based long-term care residential models such as assisted living and adult family care;
4. Support for family caregivers through two statewide respite care programs: the Family Caregiver Support Program and the Alzheimer's Disease and Related Disorders grant program; and
5. Implementation of a quality management system which focuses on quality as experienced by program participants.

There is also ongoing work being accomplished in a Person Centered Planning program for older adults and adults with physical disabilities and a variety of information technology initiatives to improve the efficiency and effectiveness of a person-centered long-term care system.

Long-Term Care Commission

The Long Term Care (LTC) Commission was created by the joint Legislative Committee on Elderly Affairs at its March 24, 2008 meeting to refocus efforts on LTC reform by building on the bi-partisan policy direction in place since the passage of SB 409 in 1998. The Commission's work was also informed by ongoing policy development activity already in place, such as the Systems Transformation grant, the Transportation Task Force and the LTC Direct Care

Workforce Group. The purpose of the Commission was to propose methods for advancing the following goals:

- Expand support for home and community-based options (HCBS) for both Medicaid and non-Medicaid populations;
- Increase rates paid by Medicaid for long term services in the community;
- Support family caregiver services;
- Allow for prompt financial and clinical Medicaid eligibility; determination;
- Address the shortage of health care, long term care and direct care workers; and
- Address the shortage of trained geriatricians in the medical professions.

The Commission adopted the mission, vision and values developed by the Long Term Support Systems Transformation Work Group. (A copy of the mission, vision and values statement is provided in Appendix 1.)

The members of the LTC Commission are listed in Appendix 3. The LTC Commission met monthly from May through December 2008. The result of their deliberations during this time period is a set of recommendations outlined herein.

Recommendations

The LTC Commission makes the following recommendations to improve the system of long-term services and supports for New Hampshire residents.

1. New Hampshire should support the development of an array of long-term care services and supports that allows all citizens to choose those which best meet their needs.
2. The Medicaid eligibility process for long-term care services and supports should be improved to shorten the time it takes to make a determination and to make the process less burdensome for individuals and families needing support. Individuals and families need to know as soon as possible if they will be eligible to receive public support. Very often crucial decisions about the type and amount of services and supports required need to be made quickly; people need timely, accurate and understandable information to help them with their choices. The Commission recommends that additional work be accomplished in the following areas:

- a. Evaluate whether Medicaid assessments need to be performed by nurses or if other trained personnel could perform part or all of the assessment;
 - b. Evaluate whether the assessment process can be shortened and/or simplified;
 - c. Examine additional opportunities to automate the process using informational technology solutions; and
 - d. Evaluate the presumptive eligibility process, and revise the process if needed.
3. A revolving loan fund should be established to provide financing for building modifications to create adult family care homes or to assist families and communities to care for their relatives or friends. This fund would focus on facilitating care for those who are not eligible for other assistance. Funding could come from private or public sources to increase the amount and variety of available long-term services and supports throughout the state.
4. New Hampshire should establish a Long Term Care Commission to respond to issues related to the increased demand for long-term care services and supports. The Commission would be responsible for evaluating the capacity of the current long-term care system and recommending ways to develop the needed infrastructure, services and supports for the near-term and longer-term needs of New Hampshire citizens. The Commission would work with existing bodies addressing related issues and would build upon ongoing work. The Commission would address the following subjects at a minimum:
 - a. Home and community-based care options for New Hampshire citizens in all geographic areas;
 - b. Family caregiver services;
 - c. Shortage of health care, long-term care and direct care workers, including medical professionals trained in gerontology;
 - d. Reimbursement rates for long-term care services;
 - e. Prompt financial and clinical public benefit determinations; and
 - f. Services and supports for New Hampshire citizens which embody respect, dignity, choice and control until the end of life.

The Commission has drafted legislation to establish a Long Term Care Commission, a copy of which is included as Appendix 2.

Other Topics

There were several other topics which were considered by the Commission, but did not result in a recommendation.

1. Budget mechanisms to support an individual's choice of long-term care services.
2. Strategies for a stable long-term care workforce.
3. Caregiver support programs for all populations.
4. Medicaid budget limits on individual home and community based services.

Appendix 1. Mission, Vision and Values

Mission, Vision and Values

The Commission adopted the mission, vision and values created by the N.H. Long Term Support Systems Transformation Work Group.

Mission

To create a dynamic and enduring community-based system of long-term supports, so *all* New Hampshire citizens may live and age with respect, dignity, choice and control until the end of life.

Vision

All New Hampshire citizens have access to the full array of long-term supports and services. This allows them to exercise personal choice and control, and affords them dignity and respect throughout their lives. To the greatest extent possible, each of us is able to make informed decisions about our aging, health, and care needs. There is a high level of quality and accountability in everything offered and everything provided. Over time, New Hampshire *truly* becomes an extended community of people who care about, value and help one another.

Values

These are the ideals toward which we strive for all New Hampshire citizens:

- Quality of Life
- Dignity & Respect
- Choice & Access
- Personal Responsibility
- Ease
- Service
- Integration
- Responsiveness
- Wellness
- Quality & Outcomes

Quality of Life. First and foremost, we are steadfast in our commitment to a quality of life of one's choosing throughout our lives. *To this end, we aspire to the following:*

Dignity & Respect. Each individual is valued. This includes the many differences that exist among people. Such valuing leads to increased dignity and respect of older persons and those with disabilities. In the process, the citizens of New Hampshire come to recognize that *everyone* is valuable and has something to contribute to the greater good. Likewise, all types of caregivers (including family members) are sufficient in number and are developed, trained, valued, and compensated appropriately.

Choice & Access. All efforts ultimately lead to maximized choice, independence, control and timely access to a full array of services and options for *all* individuals, regardless of age, payer source or personal ability to pay. People are encouraged to make their own choices within a full range of possibilities (even as we are mindful of how *others, at times*, must make choices on behalf of individuals). Information, education, support and services become increasingly available on a 24/7 basis. All of these components (and the service system as a whole) are responsive to individuals as their needs arise and then change over time. All components of the health care system exist to help and support people. Thus they act in support of the people they are meant to serve.

Personal Responsibility. Personal responsibility is a lifelong ideal and commitment. It takes different forms for different people. It often varies significantly over the course of one's lifetime. Personal responsibility encompasses the lifestyle and health care options one has, the choice one makes, and the actions one takes. Not just for oneself, but for members of one's extended family...even one's friends and neighbors. Such family supports are the backbone of the care most people receive at most stages of life. These range from regular communication and personal visits to ongoing education and proactive planning...from hands-on care to responsible, long-term financing. Yet we also recognize that there are some individuals, situations, or times when personal and family efforts need to be supplemented by appropriate community and governmental supports or structures.

Ease. Not only are services accessible, but the entire system is simple to use. We strive for a seamless system, capable of smooth transitions from one phase of living to another as time passes. As people age and lose capabilities, connectedness, and so forth, we do our best to keep people connected socially and involved in how their changing needs are met. Each older or disabled adult in New Hampshire comes to have a personal guide, one single individual with whom to deal within the larger system.

Service. An integral and essential part of being a citizen- *a human being!* - is the commitment to help one another. This belief infuses all that we do, all that we stand for, and all that we promote. Out of this value of care and connectedness emerges our ongoing efforts to collaborate – to work together for the good of all people in our communities and state.

Integration. Everything is well integrated, from systems and processes, to services and choices. All government-funded services are available as a single, unified pool to individuals. Such components as community and non-medical services, the home, family roles, and geographic realities are taken into consideration. All efforts are mindful of individual, family, and community desires, differences, and abilities in providing services, support and care. The system supports the existing inherent resources within each individual's life.

Responsiveness. We continually seek ways to enlarge society's capacity to meet critical needs by providing the services and resources collectively needed and desired. Over time, we expect communities to become more comprehensively "livable", playing a more significant role in supporting the varied needs of *all* their citizens. As times, needs, and expectations change, the system of services will change as well. It is responsive and dynamic. The past and present influence, but do not control the future. Our culture, our attitudes, our communities, our neighborhoods, and our systems are all reinvented as needed. Nothing can stagnate, when change and responsiveness are required. We are continually alert to unintended consequences to actions and decisions – and we respond accordingly, so we are able to create what we truly desire.

Wellness. In the inevitable face of aging - with or without disabilities – we promote *wellness*. It is the foundation of everything we do. Out of wellness emerges the ability for all men and women to live to the maximum.

Quality & Outcomes. Quality infuses *everything* that is done, *everything* that is offered, *everything* that is provided. We pay attention to what does and does not happen. We measure and assess outcomes, and utilize that data in our ongoing *informed* decision-making and modifications to our efforts that result. This, as we achieve quality – or fall short of it – we know it. We act accordingly.

Operating Procedures

The Commission adopted operating procedures which included a strong emphasis on not duplicating work being done in other broad-based policy initiatives and building on reforms that have been completed and which are in progress.

Appendix 2. HB 380

2009 SESSION

09-0708

01/10

HOUSE BILL **380**

AN ACT relative to long-term care.

SPONSORS: Rep. Donovan, Sull 4; Rep. Pilliod, Belk 5; Rep. Emerton, Hills 7; Rep. Gagnon, Sull 4; Sen. Downing, Dist 22; Sen. Hassan, Dist 23; Sen. Gallus, Dist 1; Sen. Gatsas, Dist 16

COMMITTEE: Health, Human Services and Elderly Affairs

ANALYSIS

This bill establishes guidelines and standards for the New Hampshire long-term care policy. This bill also establishes the New Hampshire long-term care commission to assess and oversee the long-term care system in New Hampshire.

Explanation: Matter added to current law appears in ***bold italics***.

Matter removed from current law appears [~~in brackets and struckthrough.~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

09-0708

01/10

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Nine

AN ACT relative to long-term care.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 Statement of Policy on Long-Term Care.

I. The general court finds and declares that the intent for the New Hampshire long-term care system is that:

(a) A dynamic and enduring continuum of long-term care services and supports exist in order that all New Hampshire citizens may live within their community and age with respect, dignity, choice, and control throughout their lives.

(b) Each citizen has the opportunity to make informed decisions about his or her own health, care, and aging needs.

(c) There is quality and accountability in services and supports that are offered and provided.

II. It is the intent of the general court that long-term care system policies reflect the goal that New Hampshire strives to be an extended community of people who care about, value, and help one another.

III. The general court further recognizes that it is time for state leaders to evaluate and build the long-term care system capacity and infrastructure for the needs of the citizens of New Hampshire today and in the future.

2 New Chapter; Long-Term Care Guidelines; Commission Established.
Amend RSA by inserting after chapter 151-G the following new chapter:

CHAPTER 151-H

LONG-TERM CARE COMMISSION

151-H:1 Long-Term Care System Design Standards.

I. The long-term care system shall support the informed choices of individuals.

II. All individuals shall be treated equally, regardless of age, ability, or needs, to engender and perpetuate dignity and respect for all, as well as to recognize that each individual is a valuable and contributing member of the community.

III. To the maximum extent possible, the long-term care system shall strive to afford each individual choice, independence, control, flexibility, and timely access to a full array of services and supports, regardless of age, abilities, needs, or payor source, as well as services and supports that are self-determined, individualized, and that complement the existing supports of the individual.

IV. Capacity of caregivers, paid and unpaid, shall be sufficient in number and these caregivers shall be trained, valued, and compensated, as appropriate.

V. Long-term care system access and transitions shall be simple, convenient, and seamless, such that the entry into all sectors shall be integrated, regardless of payor or type of long-term care provider.

VI. Long-term care system services and supports shall enable individuals to remain connected with their community.

VII. The long-term care system shall be dynamic and responsive to changes that occur over time in the community and in the needs of community members.

VIII. The long-term care system shall promote wellness and take into consideration the needs of the whole person.

IX. The long-term care system shall include a comprehensive quality assurance mechanism across the entire continuum of services, supports, and settings. Such mechanism shall:

(a) Include a focus on consumer perceptions of quality and processes, so as to ensure ongoing feedback from individuals and their families; and

(b) Enable timely identification and resolution of issues and improvement of the overall quality of the system.

151-H:2 Long-Term Care Commission Established.

I. There shall be a New Hampshire long-term care commission to respond, in an ongoing manner, to the increased demand for long-term care brought about by the aging of the state population and the long-term care workforce shortage. The commission shall consist of the following members:

(a) Two members of the house of representatives, one of whom shall be from the health, human services and elderly affairs committee and one of whom shall be from the joint legislative committee on elderly affairs, appointed by the speaker of the house of representatives.

- (b) One member of the senate who shall be from the health and human services committee, appointed by the president of the senate.
- (c) The commissioner of the department of health and human services, or designee.
- (d) Two representatives of the New Hampshire Association of Counties, one of whom shall be an elected official, or designee, and one of whom shall be a county nursing home representative, both appointed by the association.
- (e) A licensed physician, nurse, or nurse practitioner who specializes in the field of gerontology, appointed by the governor.
- (f) Three consumers, as defined in paragraph II, representing 3 different regions of the state, appointed by the governor.
- (g) Three consumer long-term care advocates, nominated by 2 or more organizations; provided that no more than 2 advocates shall represent one organization, appointed by the governor.
- (h) Four representatives of long-term care provider entities, such as, residential care, home or community-based care, and non-medical social services entities, nominated by their respective trade association, appointed by the governor.
- (i) Two representatives from institutions of higher education in the state who have experience in long-term care policy, nominated by their institutions, appointed by the governor.
- (j) One direct care worker who has at least 2 years experience in long-term care and is nominated by an employer or a consumer, appointed by the governor.

II. For the purposes of this section:

- (a) “Consumer” means an individual who:

- (1) Is:

- (a) An individual who has received long-term care services; or
- (b) An adult who has provided or directed long-term care for a family member;

(2) Holds, or whose immediate family member holds, no ownership or investment interest in a long-term care provider entity in New Hampshire; and

(3) Is not an employee of or under contract with a long-term care service provider.

(b) “Immediate family member” means the spouse; civil union partner; birth or adoptive parent; stepparent; child or stepchild; sibling, stepbrother or stepsister; father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law; grandparent or grandchild; spouse of a grandparent or grandchild; or any person involved in an intimate relationship and residing in the same household.

III. The members of the commission shall as much as possible represent a geographically diverse membership, to maximize representation of the various regions of the state.

IV. Each member shall serve for a term of 3 years, except the terms of the members appointed under subparagraphs I(a)-(c) shall be coterminous with their terms in office.

V. Legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission. The commission shall meet at least 4 times a year. All meetings shall be at the call of the chair. At the first meeting each year, the commission shall elect from its membership a chair and vice-chair. The commission shall establish a procedure to govern its deliberations. Ten members of the commission shall constitute a quorum.

151-H:3 Long-Term Care Commission; Duties; Report.

I. The commission shall:

(a) Assess the current status of the adequacy and delivery of long-term care services.

(b) Collect current and long-range data on long-term care and the long-term care population of the state.

(c) Evaluate state expenditures for long-term care, considering efficiency, consumer choice, competition, and equal access to providers.

(d) Identify, evaluate, and make recommendations relative to gerontological, mental health, and developmental services issues in long-term care.

(e) Recommend the long-term goals for the state for providing a continuum of long-term care for older adults based on the standards in RSA 151-H:1.

(f) Evaluate and recommend financing mechanisms for long-term care.

(g) Evaluate and make recommendations relative to legislation, administrative rules, and policies on long-term care.

(h) Coordinate the commission's activities with other activities related to long-term care services and supports, as appropriate.

(i) Recommend policies that support the participation of families and volunteers in meeting long-term care needs.

(j) Recommend goals for providing guardianship services and other representation for adults who require such assistance.

(k) Carry out other activities the commission considers necessary to perform its mandate.

II.(a) The commission may hold public hearings across the state to solicit public input with respect to long-term care in the state.

(b) The commission may appoint subcommittees to assist with its work and shall prescribe the duties of the subcommittees. A subcommittee may include non-commission members and shall include at least one commission member.

III. The commission shall annually report its findings and any recommendations to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, the commissioner of health and human services, and the state library on or before November 1 of each year.

3 Applicability.

I. Initial appointments to the commission under RSA 151-H:2, I(d)-(j) shall be staggered terms of one, 2, and 3 years.

II. The initial meeting of the commission established in section 2 of this act shall be no later than September 1, 2009 and at the call of the first-named house member.

4 Effective Date. This act shall take effect upon its passage.

Appendix 3. LTC Commission Membership

Commission members represented groups involved in long term services and supports including consumers, providers, policy makers and academics. The members were:

Ex-Officio: Katja Fox, Governor's Office

Sen. Margaret Wood Hassan

Rep. James MacKay

Rep. Joan Schulze

Roberta Berner, NH Coalition on Aging

Jill Burke, Granite State Independent Living

Ellen Curelop, NH Independent Case Management Association

Susan Fox, UNH Institute on Disability

Tim Gormley, NH State Council on Aging

Owen Houghton, NH State Council on Aging

Doug McNutt, AARP NH

Arlene Kershaw, Easter Seals NH

Karen Kimball, NH Developmental Disabilities

Dan Klein, NH Health Care Association

Terry Lochhead, NH Community Loan Fund, Elder Rights Coalition

Betsy Miller, NH Association of Counties

Lisa Morris, ServiceLink

Laurel O'Connor, NH Legal Assistance

Kathleen Otte, Bureau of Elderly and Adult Services

Nancy Rollins, Department of Health and Human Services

Barbara Salvatore, EngAGING NH

Carol Stamatakis, NH Council on Developmental Disabilities

Michelle Winchester, Institute for Health, Law and Ethics, Franklin Pierce Law Center

Susan Young, Home Care Association of N.H.